

1 SCOTT N. SCHOOLS (SCSBN 9990)
United States Attorney

2 W. DOUGLAS SPRAGUE (CASBN 202121)
3 Chief, Criminal Division

4 BENJAMIN T. KENNEDY (CASBN 241350)
5 Assistant United States Attorney

6 150 Almaden Boulevard
7 San Jose, California 95113
Telephone: (408) 535-5059
Facsimile: (408) 535-5066
Email: benjamin.t.kennedy@usdoj.gov

8 Attorneys for the United States of America
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 *E-FILED - 8/20/07*

14 UNITED STATES OF AMERICA,) No. CR 07-00434 RMW
15 Plaintiff,) STIPULATION AND []
16 v.) ORDER EXCLUDING TIME FROM
17 ELMER OCHOA-ALVAREZ,) AUGUST 6, 2007 TO AUGUST 27, 2007
18 Defendant.) FROM THE SPEEDY TRIAL ACT
CALCULATION (18 U.S.C. §
3161(h)(8)(A))
19 _____)

20 On August 6, 2007 the parties appeared for a hearing before this Court. At that hearing,
21 defense counsel requested an exclusion of time under the Speedy Trial Act based upon defense
22 counsel's need to effectively prepare by reviewing the defendant's A file and other discovery
23 materials submitted by the government. At that time, the Court set the matter for a hearing on
24 August 27, 2007.

25 The parties stipulate that the time between August 6, 2007 and August 27, 2007 is
26 excluded under the Speedy Trial Act, 18 U.S.C. §3161, and agree that the failure to grant the
27 requested continuance would unreasonably deny defense counsel reasonable time necessary for
28 effective preparation, taking into account the exercise of due diligence. Finally, the parties agree

1 that the ends of justice served by granting the requested continuance outweigh the best interest of
2 the public, and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18
3 U.S.C. §3161(h)(8)(A).

4

5 DATED: August 6, 2007

SCOTT N. SCHOOLS
United States Attorney

6

7

/s/
BENJAMIN T. KENNEDY
Assistant United States Attorney

8

9

10 /s/
CYNTHIA LIE
Assistant Federal Public Defender

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

ORDER

Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY ORDERS that the time between August 6, 2007 and August 27, 2007 is excluded under the Speedy Trial Act, 18 U.S.C. §3161. The court finds that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Furthermore, the Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. The court therefore concludes that this exclusion of time should be made under 18 U.S.C. §3161(h)(8)(A).

IT IS SO ORDERED.

DATED: 8/20/07

Ronald M. Whyte
RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE